

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF THOMAS G. SMITH from the decision of the Board of Equalization of Valley County for tax year 2007.) APPEAL NO. 07-A-2582
) FINAL DECISION
) AND ORDER

VACANT LAND APPEAL

THIS MATTER came on for hearing February 5, 2008, in Cascade, before Hearing Officer Travis VanLith. Board Members Lyle R. Cobbs, Linda S. Pike, and David E. Kinghorn participated in this decision. Appellants Thomas and Jean Smith appeared. Appraiser June Fullmer, Chief Deputy Assessor Deedee Gossi, and Assessor Karen Campbell appeared for Respondent Valley County. This appeal is taken from a decision of the Valley County Board of Equalization modifying the protest of the valuation for taxing purposes of property described as Parcel No. RPM02250000090A.

The issue on appeal is the market value of a vacant residential lot.

The decision of the Valley County Board of Equalization is modified.

FINDINGS OF FACT

There are no improvements built on subject, however the land is assessed at \$79,530. Appellant requests the land value be reduced to \$35,000.

Subject is an unimproved .491 acre residential lot located in a McCall subdivision. Subject does not have sewer access.

Appellant purchased subject in 1995 for \$50,000. Appellant was aware of subject's sanitary restrictions at the time of purchase, however noticed owners of other similarly-encumbered lots were allowed by the city to build private sewage systems and connect them to a nearby city-owned sewer line. Appellant believed a similar allowance would be made for subject. Such did not happen and subject has had no sewer access since Appellant's purchase.

Appellant contended the sanitary restrictions have rendered subject unbuildable and otherwise unusable. Two local real estate agents told Appellant subject was likely worth between \$30,000 and \$40,000.

Appellant noted several attempts made over the years to correct the sewer restrictions of subject and other similarly encumbered lots in the subdivision. At least two separate attempts were made by the City of McCall, but were ultimately defeated. Subsequently, owners in subject's subdivision tried to form a Local Improvement District (LID) to build a suitable sewer system for the encumbered lots. It was estimated the cost would be in excess of \$60,000 for each owner in the subdivision, whether their lot had sanitary restrictions or not. In the end, residents voted against formation of the LID and subject has remained without sewer access since.

Respondent acknowledged the sanitary restrictions and testified a 50% downward adjustment was applied to subject, resulting in the \$79,530 assessed value.

Respondent then presented three (3) sales of lots in subject's subdivision to support the assessed value. The 2005 sale concerned a .546 acre lot that sold for \$146,000. The two sales from 2006 involved lots of .271 and .313 acres which sold for \$100,000 and \$175,000, respectively. None of the lots had sanitary restrictions. Respondent speculated the \$100,000 sale price appeared low and attributed the seemingly low price to unknown factors.

Respondent also referenced two (2) older sales of lots with similar sewer restrictions that were immediately proximate to subject. The sales occurred in 1998 and 2003 for \$60,000 and \$69,000, and involved lots of .419 and .398 acres in size, respectively. As these were older sales, they were not considered in the valuation of subject.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

For the purposes of taxation, Idaho uses a market value approach to assess property, as defined in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Respondent provided three (3) bare lot sales in subject's subdivision to support the assessed value. The lots were similar in size to subject and occurred during 2005 and 2006. The prices ranged between \$100,000 and \$175,000. While the sales involved properties that were proximate to subject, the fact that none have sewer restrictions, make it difficult to justify their use as a reliable bases from which to value subject.

Both parties concede subject's sewer restrictions make the lot unbuildable and otherwise unusable, however, Idaho Code requires all property not specifically exempted by statute be assessed at market value. See *Idaho Code* § 63-601. Subject does not qualify for any of the enumerated exemptions, so market value must be determined for assessment purposes.

Given subject's unique circumstances, the Board finds the lowest possible value should be placed on the property. While Respondent's sales did not involve properties with sewer restrictions, these are the only data points the Board has to consider. Despite Respondent's

concerns that unknown factors contributed to the \$100,000 sale in 2006, nothing in the record validates that claim. Additionally, because Respondent presented the sale as evidence of subject's market value, the Board will consider this sale. After applying the 50% downward adjustment given to all similarly-restricted properties in the County, we arrive at a \$50,000 value for subject. The decision of the Valley County Board of Equalization will be so modified.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is modified to reflect a decrease in value to \$50,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 3, 2008